



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/166584

PRELIMINARY RECITALS

Pursuant to a petition filed June 10, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washburn County Department of Social Services in regard to Medical Assistance, a hearing was held on July 23, 2015, at Shell Lake, Wisconsin.

The issue for determination is whether the petitioner is ineligible for BadgerCare Plus because his household income exceeds the program's limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Susan Conaway

Washburn County Department of Social Services
110 W 4th Avenue
PO Box 250
Shell Lake, WI 54871

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Washburn County. She lives with her husband.

2. The petitioner earns \$1,295 per month. Her husband is self-employed and earns \$492.75 per month.
3. The federal poverty level for a two-person household is \$1,327.50. *BadgerCare Plus Handbook*, § 50.1.

DISCUSSION

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Adults are ineligible if their household income exceeds the federal poverty level, which for a family of two—the size of the petitioner's—is \$1,327.50. Wis. Stat. § 49.471(4)(a); *BadgerCare Plus Handbook*, § 50.1.; *BadgerCare Plus Handbook*, § 50.1. The county agency denied BadgerCare Plus to the petitioner's husband because their combined income is \$1,787.75 per month.

The facts concerning the couple's income is undisputed. The petitioner receives \$1,295 per month in wages. Her husband is self-employed. The agency determined his wages by dividing the \$5,913 he reported on his 2014 federal income tax return by 12 to get a monthly average of \$492.75. Although the petitioner and her husband agree that these figures are correct, they contend that they need benefits to catch up from when his business was losing money. While I understand their hardship, I must follow the rules as they are written. Because their income exceeds the BadgerCare Plus program's limit, I must uphold agency's decision.

CONCLUSIONS OF LAW

The petitioner is ineligible for BadgerCare Plus because his income exceeds the federal poverty level.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

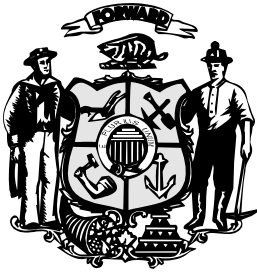
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 27th day of July, 2015

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on July 27, 2015.

Washburn County Department of Social Services
Division of Health Care Access and Accountability